

U.S. DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA DIVISION

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RITCHIE GROCER CO.

CIVIL ACTION NO. 14-2868

-vs-

JUDGE DRELL

2H, INC., ET AL.

MAGISTRATE JUDGE PEREZ-MONTES

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**J U D G M E N T**

For the reasons contained in the Report and Recommendation of the Magistrate Judge previously filed herein, and after independent (de novo) review of the record, including the objections and responses thereto filed in this case, and having determined that the proposed findings and recommendations are correct under applicable law;

**IT IS HEREBY ORDERED** that the motion for partial dismissal filed by defendants BEPCO, L.P. and BOPCO, L.P. (hereinafter, "Defendants") and found in the record at Doc. 77 is **GRANTED** in part and **DENIED** in part. Specifically, Plaintiff's claims for fraud, punitive damages, continuing tort, continuing trespass, civil fruits, unjust enrichment and those asserted under Louisiana Civil Code Articles 576, 577, 645, 2317, 2322 and 2688 and those asserted under Article 22 of the Louisiana Mineral Code and Section 324(A) of the Restatement (second) of Torts are **DISMISSED** with prejudice pursuant to Fed. R. Civ. P. 12(b)(6). In all other respects, Defendants' motion to dismiss is **DENIED**.

In so finding, the court concurs with the proposed findings of the magistrate judge regarding Plaintiff's fraud claims. Our review of Plaintiff's amended complaint reveals a lack of specificity as is required under Fed. R. Civ. P. 9(b). (Doc. 64). Similarly, we agree with the

magistrate judge's proposed findings regarding Plaintiff's claims under La. Civ. C. Arts. 2317 and 2322, in that we find Plaintiff's complaint to be vague and conclusory, failing to allege facts as are necessary to maintain the claims. Alford v. Chevron, U.S.A., Inc., 13 F.Supp.3d 581, 609 (E.D. La. 2014) (internal citations omitted).

**THUS DONE AND SIGNED** this 30<sup>th</sup> day of December at Alexandria, Louisiana.



**DEE D. DRELL, CHIEF JUDGE  
UNITED STATES DISTRICT COURT**